

RESPONSE TO RESTRICTION REQUIREMENT AND
AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Appln. No.: 09/929,066
Attorney Docket No.: Q65807

REMARKS

The present invention relates to a superoxide scavenger and a beverage containing the superoxide scavenger.

In the present Amendment, all of the claims have been amended to be directed to a superoxide scavenger or a beverage. The original claims presented in the application were also directed to a superoxide scavenger or a beverage. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the Restriction Requirement.

At page 2 of the Office Action dated September 18, 2003, claims 1-4 were rejected under 35 U.S.C. §102(b) as allegedly anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly obvious over Qian (CN 1123833) or Kaneko (JP 57-125669). Further, at page 3 of the Office Action, claims 1-4 were rejected under 35 U.S.C. §102(b) as allegedly anticipated by Hattori et al (JP 58-152,458). Lastly, at page 4 of the Office Action, claims 1-4 and 7-8 were provisionally rejected under the judicially created doctrine of non-obviousness type double patenting over claims 1-10 of copending Application No. 09/929,064.

In response, Applicants have, in the present Amendment, amended claims 1 and 3 to incorporate the subject matter of claims 7 and 8 which were not included in the art rejections,

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respectively. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection.

Applicants submit that the amendments made in the present Amendment are sufficient to overcome the prior art rejections. The only other rejection is the provisional rejection of claims 1-4 and 7-8 under the judicially created doctrine of non-obviousness type double patenting over claims 1-10 of copending Application No. 09/929,064. Under MPEP 804 (I)(B), this provisional rejection should now be withdrawn.

In view of the above, reconsideration and allowance of claims 1-4 are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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